



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 27, 1994

Ms. Rachael Martin  
Executive Director  
The Supreme Court of Texas  
Board of Law Examiners  
P.O. Box 13486  
Austin, Texas 78711-3486

OR94-266

Dear Ms. Martin:

You have received two written requests from an individual who has filed with your office a Declaration of Intention to Study Law, which we have combined under ID# 17352. In the initial letter, the individual asked for records relating to his moral character and fitness, and sought to have them supplied on a continuing basis.<sup>1</sup> His second letter asked for information placed in his file since his first request.

You have sent us correspondence from the individual's previous employer, related items of correspondence, and memoranda and notes that refer to the subject matter in the previous employer's communication to the board, which you argue are excepted from disclosure by section 82.003(c) of the Government Code. You have also sent in-house notes and memoranda among the Board's Staff Attorney, Director of Character and Fitness, and the Executive Director. You state that these are presumptively open unless they fall within an exception to the Open Records Act.

The Board of Law Examiners is established and governed by chapter 82 of the Government Code. Among other duties, the board assesses the moral character and fitness of applicants for a license to practice law. Gov't Code § 82.004(c). Section 82.003(c) of the Government Code provides as follows:

Deliberations relating to moral character and fitness of an applicant may be closed to the public, and records relating to these subjects are exempt from disclosure. *On the written request of an*

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<sup>1</sup>The Open Records Act does not require you to supply information on a continuing basis. See Open Records Decisions Nos. 476 (1987); 452 (1986).

*applicant, however, the applicant is entitled to have disclosed to the applicant records relating to the applicant's own moral character and fitness unless the person who supplied the information has requested that it not be disclosed. The board shall not inquire of a person who supplies information whether the person objects to disclosure nor inform the person of the right to object.*

*Id.* § 82.003(c) (emphasis added).

Open Records Decision No. 623 (1994) addressed an applicant's request for information about his moral character and fitness in the possession of the board. It held that section 82.003(c) expressly makes the applicant's records about his moral character and fitness available to him, unless the person who supplied the information requested that it not be disclosed, and that exceptions to the Open Records Act do not apply to his request for these records. Open Records Decision No. 623.

You initially wished to withhold two documents pursuant to section 82.003(c) of the Government Code. These were a letter expressly requesting that it not be disclosed, citing section 82.003(c), and a presentence report about the applicant loaned to you for thirty days by the probation office of the United States District Court for the Eastern District of Michigan, with directions that you not duplicate it. However, the author of the letter has authorized the board to release this item of correspondence to the applicant, and you have done so, notifying us by copy of your cover letter. The court has authorized you to keep and use the presentence report, and you have sent a copy of this to the applicant, also notifying us that you have done so. Accordingly, the question of the applicant's access to these two items is moot, since they have already been made available to him. Other documents that quote or paraphrase the letter are also open to the applicant.

The exceptions in the Open Records Act do not authorize you to withhold "records relating to the applicant's own moral character and fitness" from the applicant; accordingly, you must disclose the remaining information to him.

Because prior published open records decisions resolve this matter, we are communicating our decision by an informal letter ruling rather than by published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Susan L. Garrison  
Assistant Attorney General  
Open Government Section

SLG/KKO/rho

Ref.: ID# 17352

Enclosures: Submitted documents

cc: Mr. Ryan Krebs  
5904 Carey  
Austin, Texas 78757  
(w/o enclosures)